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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/492,725 | 01/27/2000 | Robert G. Arsenault | PD-980142 | 1296 |

20991 7590 09/12/2006

THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
P O BOX 956
EL SEGUNDO, CA 90245-0956

EXAMINER

JANVIER, JEAN D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3622 | |

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/492,725

Applicant(s)

ARSENAULT ET AL.

Examiner

Jean Janvier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-34 and 41-67 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 18-34 and 41-67 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 16, 2006 has been entered.

DETAILED ACTION

Specification

Status of the claims

Claims 18-34 and 41-47 and newly added claims 48-67 are currently pending in the Instant Application following the Board Decision..

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24 and 41-47 are rejected under 35 USC 102(e) as being anticipated by Gerace,

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WO 97/41673.

As per claims 24 and 41-47, Gerace discloses a system for displaying advertisements to a user, over the Internet, based on the user's preferences (interests, habits or psychographic or behavioral profile or specification information) **and demographic information**. The user's psychographic profile and demographic profile are collected from the user during a registration or an enrollment or sign-up process. Thereafter, the psychographic profile is constantly refined using the user's monitored viewing habits and computer activity. Further, content of categories of interest **and display format** in each category are included in the psychographic profile as a result of the user's viewing or browsing activities (specification information identifying the type of information item the user is interested in). Consequently, targeted advertisements are appropriately displayed to the selected user via his computer screen, based on the user's psychographic and demographic profile, when he logs into the system to request a primary content and wherein **these advertisements are constantly being modified** in accordance with the user's interaction or viewing activities (viewing of age information) or psychographic or behavioral profiles.

(p. 33: 31 to p. 34: 9; p. 26: 7-20; p. 18: 22 top. 19: 4; p. 30: 23 to p.31:8) and
(See abstract; figs. 3B-3F; p. 3: 2 to p. 5: 19; p. 13: 1-22; p. 39: 22 to p. 45: 7).

Furthermore, Gerace discloses that each advertisement from an advertiser has one or ad packages **or ad objects**. In each ad package or **ad object 33b**, there is shown a start and end dates and times (schedule of display) and pricing for the ad package or ad object. **Each ad belongs to a series of ads** (ad listing). For serially displayed ads, the maximum number of

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views in a series to be displayed in a particular sequence, per user and per day, is also indicated. For instance, **ad object 33d of fig. 5D indicates a series ID and a series sequence (i.e. the ordering of the ad in a series) while referencing to an ad series object 33c of fig. 5C, which shows in turn the intended targeted demographic profiles, products and services offered by the sponsor, etc.** Moreover, the system compiles statistical reports that show the success or the failure of a particular ad campaign. (fig. 5A-5D; page 22: 36 to page 24: 15).

In general, specific to desired ads, each sponsor or advertiser or merchant has one or more **Ad Series Objects 33c (FIG. 5c). An Ad Series Object 33c (FIG. 5c)** provides an indication of whether a given advertisement is singly or serially displayed (groups of ads), the category of the information, and the demographic group of users (configuration data) pre-requested by the sponsor to be shown that advertisement. In a preferred embodiment, the sponsor specifies in Ad Series Object 33c the required and/or preferred psychographic and/or demographic criteria and relative importance (e.g., weight) with respect to each criterion (configuration). Further, the sponsor specifies in Ad Series Object 33c a minimum total weight of criteria (local condition) to be met by a user to qualify the user to view the advertisement or ad series (one or more groups of ads). Also **Ad Series Object 33c includes a reference or a link to an Ad Package Object 33b (via an ad package identification or Ad Package ID or Ad Object 33b of fig. 5B; one object is linked to another)**, the hour of the day in which the ad/ad series is to start and end, the days of the week on which the ad/ad series is to be displayed, and the beginning and ending dates and times of the ad/ad series (**schedule related to a display**

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of one or more series of ads). Also for serially displayed advertisements, Ad Series Object 33c indicates the maximum number of views in a series to be displayed per user and per user per day. Following a display of ads to the targeted group, a Detailed Package Report provides, **to the sponsor, information on individual ad packages, including showing the ads included in the package with video and audio portions intact (The ad object has included therein a link to an image object and audio object whose associated content is being called from a designated location during execution of a module by a processor to display the image on the user's interface or output an audible signal thereat).** The demographic profiling requested and demographic breakdown of success with respect to a control group are also provided in the Detailed Package Report. Also the number of hits and click- throughs purchased and achieved are designated in the Detailed Package Report.

Each ad forms a corresponding Ad Object 33d as illustrated in FIG. 5d. For a given advertisement, Ad Object 33d indicates to which series the advertisement belongs. To effectuate this, the Ad Object 33d indicates a series ID which references an Ad Series Object 33c, and indicates a series sequence (i.e., the ordering of the ads in a series or the priority of display of ads in a series). Ad Object 33d also includes the starting and ending time for display of the ad each day (scheduling object). Ad Object 33d also provides references to graphic references (image object or image file), sound, and multimedia portions of an advertisement. A text-only format of an advertisement is used for users receiving messages on their own E-mail service or on a text-only browser (e.g., Links systems for VAX/VMS operating systems) rather than through the messaging feature of program 31; in other words, the ad is displayed to a user in accordance with a local condition or display interface capability). Here, Ad object 33d

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(directory) of fig. 5D refers or calls graphic references (or image objects (which may represent a directory containing one or more image files stored on the server or a different server), Ad Series Object 33c (directory) of fig. 5C linked via package ID to Ad Package 33b of fig. 5B (directory containing a plurality of files), which calls via Sponsor ID Sponsor Object 33a of fig. 5A (Sponsor directory comprising a plurality of files). When a view op occurs or when a user having a profile matching the advertiser's specifications visits the system, or system web site, program 31 retrieves and displays the related advertisement, based on local conditions or the user's interface capability, by executing Ad Object 33d of fig. 5D, which calls, among other things, therefrom graphic references or image objects, Ad Series Object 33c, which in turn refers to Ad Package Object 33b, which refers to Ad Sponsor Object 33a, which in turn calls via User ID User Object 37a of fig. 3B for completion. This is well established in the area of Object Oriented programming (e.g. C language). This data structure model is widely used in organizing directories and files stored in a Hard disk drive under MS DOS and MS Windows Operating or Interface. Except for the display of the advertisement and related images, texts, sounds, etc., the execution or operation is transparent to the user.

See figs. 5A-5D; page 22: 25 to page 24: 15.

Further, a Demographic Response Rates Report is generated where all ad packages of a sponsor or selected ones are compared. In particular, the ad success by the sponsor-targeted demographic groups is compared. A reporting subroutine 41 of program 31 also calculates a regression on the targeted demographic groups for the ads, and the results of the regression calculation are used to suggest other demographic characteristics that are important factors in

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the number of click-throughs and/or number of purchases (Other demographic groups, following the reporting, may be considered in order to achieve the number of click-throughs and/or generated purchased). The advertiser may also run a complete regression report for all or certain ad packages.

Additionally, appropriate hardware and software used in the system are disclosed on page 6: 22 to page 12: 36 and figs. 1-4. For example, the present system uses a software program or module 31 operated on and connected through a server 27 to the Internet for communication among the various networks 19 and/or processors 11, 13, 15, 17 of fig. 1 and other end users connected through respective servers 25. In the preferred embodiment, the server 27 is a Digital Equipment Corp. (DEC) Alpha server cluster (e.g., 2400-8000 Series), or a multiplicity of similar such servers. Server 27 runs Oracle 2.0 Web server as HyperText Transfer Protocol (HTTP) server software to support operation of present system program 31 (p. 6: 22-32). Also for each user, there are a User Computer Object 37b and a User Interface Object 37c (fig. 3C). **For each user's computer, User Computer Object 37b provides an indication of the limitations and capabilities of the user's computer system. For instance, User Computer Object 37b lists whether the user's system provides audio and/or video display, and what Web browser software is utilized by the user's system (User's interface sophisticated level and/or local condition is used in determining which advertisement is to be displayed to the user and in what format). Here, it is further understood that an ad is displayed to the user based on a local condition such as a time of display as read from the user's computer (station) local clock).** An outline of the table/data set of a User Computer Object 37b in the preferred embodiment is illustrated in FIG. 3c (p. 11: 10 to p. 12: 2).

In the preferred embodiment, program 31 is implemented as an object oriented program as discussed above with reference to FIGS. 3a through 5b. Each object is formed of data and subroutines (methods) for acting on the data. The data is preferably stored in tables and each table is formed of a multiplicity of records or fields of information. The information held in a record in respective tables of the objects is illustrated in FIGS. 3b through 5b and discussed above. It is understood, however, that other program means, techniques, data structures and program designs for system module 31 are suitable (p. 10: 4-18).

(Page 4: 9-21; page 5: 10-19; page 9: 26 to page 10: 3; page 25: 1-20; page 28: 25 to page 29: 12; **page 29: 13-34**).

Additionally, an advertiser can create a second (new) advertising package (Package Object 33b), subsequent to creating a first Ad Package Object 33b, the advertiser submits the relevant data including graphics or video or image to the system. In response, program 31 creates a new Ad Package Object 33b and links it to the company's existing Sponsor Object 33a. From the data entered or submitted by the advertiser or sponsor into a form, main routine 39 (second software module among a plurality of modules used in the execution of the tasks disclosed herein) completes the corresponding Ad Package Object 33b, Ad Series Object 33c and Ad Object 33d of figs. 5B, 5C and 5D respectively. In turn, program 31 displays a price quote for running the ad and the sponsor-user clicks on the "accept" button. This advertisement package becomes available as soon as the sponsor-user has clicked on the "approved" button. **And the new or second ad package is used to update a database file storing the advertiser's advertising data or to simply replace an exiting (old version) Ad**

Package Object 33b (p. 36: 31 to p. 37: 31).

Finally, in order to achieve rapid and direct benefits from the performance report or detailed reporting of program 31, program 31 allows the sponsor or advertiser to enter new advertising contracts online in response to customers' reactions. For instance, with respect to reporting, if the reports of program 31 show that customers respond to still advertisements more often than moving ones, bright colors more often than darker ones, graphics rather than text then large text rather than small, detailed text or square advertisements rather than bar style ones, such data are relayed or conveyed to the sponsors/advertisers for further marketing analysis.

Furthermore, if a sponsor recognizes that, for example, 25-35 year-old women tend to purchase frequently and respond to their still, forest green colored advertisements most often, then program 31 enables associated sponsors to place that type of ad in front of the subject target market segment in real-time during a reporting cycle. Thus, program 31 enables updating of the Sponsor and Ad Objects 33 during a reporting cycle (**that type of ads becomes a high priority and therefore replaces stored or existing (or similar) low priority ads; in other words, the Ad Objects will be updated-p. 38: 34 to p. 39: 20).**

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 18, 24, 41 and 56 are rejected under 35 USC 102(e) as being anticipated by Van Hoff, USP 5, 959, 623.

As per claims 18, 24, 41 and 56, Van Hoff discloses a system for displaying a plurality of advertisements from a list to a user, wherein software module or Applets (informational programs) 310, running on the user's computer, related to the advertisements include methods for displaying the images 312 and any associated audio data 312, representing one or more advertisements for products or services, in the display window of the client computer or user's computer. **The applets (codes or first software, second software, third software, etc.) define the operational parameters related to how long images (objects) are displayed, in what sequence, how they appear and disappear or fade or flash (col. 4: 45-56; col. 7: 10-33; fig. 3). A program interpreter (first, second and third software), executed on the client computer (a receiver at the subscriber's site), performing the tasks of displaying a**

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designated or selected adlist (comprising a group of ads) from the set of designated adlists in accordance with the selection method (executed on the subscriber's receiver), repeats the display process until all ads from the designated adlists specified in the selection method are displayed (sequentially or serially). After completing the execution or displaying of a given (selected) adlist class, the interpreter looks to the selection method (as depicted in the applet) to identify the next adlist for display. In one embodiment, the same adlist can be redisplayed upon reaching the last advertisement in the adlist, especially if there is no additional designated adlist as specified in the selection method. In an alternative embodiment, a sequence of adlists is displayed. This process repeats itself, as the user visits or browses more web pages, until the user logs off from the Internet. Further the user may turn off the Ad Window displaying an advertisement from an adlist by quitting the execution at any time during the execution process by the interpreter (col. 6: 62-64; col. 7: 21-43).

Further, a user using, over the network or Internet 106, a client computer 100 (subscriber's receiver), initiating execution of the Internet access program or HotJava 110 (related to the client local browser), to access or request information (advertisements) on the network (col. 5: 28 to col. 6: 4). In another embodiment, the HotJava browser program 110 can automatically push or launch an AdWindow application, displaying a first Adlist from a list of adlists in an Ad Window, when the user logs in without the intervention of the user. In other words, at the initiation of the local browser (when the user logs in), the Ad Window, displaying an ad, may be automatically pushed or executed (fig. 2; col. 6: 4-7; col. 6: 37-48; col. 7: 60-62).

In addition, the system may display updated information or ad object related to an ad during a user current log-in session by deleting an old ad object, from the object repositories as

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appropriate, and replacing it with a new ad object to thereby free up memory from the server (col. 7: 44-56).

(Here, the advertisements contain codes that identify them as being compatible to a certain type of local conditions, such as the local browser and if the ads are not compatible to the local conditions or local browser, then these ads will be discarded or not displayed)

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 18-34 and 41-67 are rejected under 35 U.S.C. 102(e) as being anticipated by Hite et al., US Patent 5,774, 170A.

As per claim 18-34 and 41-67, Hite et al. disclose an enhanced television (radio) advertising method and/or system by targeting, delivering and displaying advertisements within

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specified programming, during program breaks, in pre-determined households having specific and addressable units while preventing advertisements from being displayed in other households (See abstract). The system comprising appropriate hardware and software (first software, second software, third software) wherein an Ad Administration Facility having stored therein advertisements and programs for analysis and classification and the results of this analysis and classification are stored in databases. In addition, advertisements or commercials are received from agencies that created them and processed them as necessary for use in the system. These processed commercials (first group or first source of advertisements) having associated CID codes (commercials ID) constructed from information or results stored in databases associated with the Administration Facility 100 of fig. 1 are conveyed or transmitted to Ad Transmission Facility 200, which combines the processed commercials and CID codes with programming and transmits the result to a plurality of Media Origination Facility 300 for delivery to the display site (reception site) 400 based on the viewer's interest. The Media Origination Facility 300 also receives programming and commercials from other sources (second group of commercials) and creates some programming and commercials in its own facilities wherein these commercials and programming are scheduled to be transmitted to the viewer's unit based on his demographic and psychographic profile. Further, a viewer is targeted with a list of advertisements from the first group or second group based on his profile and the advertisements will be displayed in a correct sequence according to a sequencing code store at the point of viewing (fig. 1; col. 8: 63 to col. 9: 42; col. 3: 65 to col. 4: 2; col. 4: 45-51; col. 8: 29-38).

Moreover, Hite discloses, in general, a system to display advertisements, stored on a set top box, on a viewer's unit or TV set based on the viewer's profile when a breaks occurs during

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the broadcast of a TV show or a programming. The displayed advertisements comprising text and/or audio and/or video (image objects or graphical representation) formats. Additionally, advertisements are often associated with objects, such as graphical images, stored on computer readable media (See abstract; col. 3: 16 to col. 8: 43).

Further, Hite discloses a system wherein a viewer is targeted with a list of advertisements based on his profile and wherein the advertisements will be displayed in a correct sequence according to a sequencing code stored at the point of viewing (viewer's set top box). Indeed, a sequencing code would be stored at the point of display. It would be used to compute a new CID (commercial ID) code for a subsequent commercial or advertisement object. **By having a sequential CID code, viewer would see a series or list of commercials in correct order** (col. 4: 45-51).

See col. 3: 16 to col. 8: 43 for more details.

Hite also discloses an enhanced television (radio) advertising method and/or system by targeting, delivering and displaying advertisements within specified programming (transmitted data stream), during program breaks, in pre-determined households having specific and addressable units while preventing advertisements from being displayed in other households (See abstract). A suitable process is used to target prospective viewers of a set of advertisements using database search and list selection procedures. The result of this process is a set of appropriate CID codes for the prospective viewers. These CID codes are transmitted to the viewing device or receiver's unit where it is stored and subsequently used to match one or more CID codes transmitted with advertisements embedded in a programming **(determining if a CID code transmitted within an advertisement embedded in a data stream is compatible to a local**

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condition or locally stored CID code, representing the viewer's interest or preference, before displaying the advertisement during a triggering event or programming or data stream break). When a match is found between the locally stored CID and the CID (commercial ID) transmitted with the advertisement or commercial, the commercial or advertisement is then presented to the viewer. If there is no match, then the inserted commercial is ignored or discarded.

The system is further adapted to display advertisements stored on the set-top box (viewer's unit or TV set or receiver's unit) based on the viewer's profile (local conditions) when a break occurs during the broadcast of a TV show or a programming (transmitted data stream). The displayed advertisements comprising text and/or audio and/or video (image objects or graphical representation) formats. (See abstract; col. 3: 16 to col. 8: 43).

Hite also discloses an enhanced television (radio) advertising method and/or system by targeting, delivering and displaying advertisements within specified programming, during program breaks, in pre-determined households having specific and addressable units while preventing advertisements from being displayed in other households (See abstract). When a match is found between the locally stored CID and the CID (commercial ID) transmitted with the advertisement or commercial, the commercial is then presented to the viewer. If there is no match, the commercial is ignored and not displayed and a default advertisement in the batch of locally stored advertisements having a low priority is considered unless it is replaced with a higher priority commercial (col. 3: 65 to col. 4: 18). Moreover, an unconditional preemptable commercial may be subject to substitution or replacement whenever other higher priority commercials are available (col. 3: 55-57; col. 8: 29-38). Advertisements are transmitted and

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stored locally in a viewer's unit along with suitable CIDs to be subsequently presented to the viewer. A broadcast (transmitted data stream) with a break to present a targeted commercial may then be transmitted with codes or CIDs in the break point. If there is a match between the stored CIDs and the transmitted CIDs, an appropriate commercial is presented, perhaps more than once. If a certification or registration code is included, that code is returned upstream to the signal origination site when commercials are successfully presented. **The presented or used commercial will then be replaced with another commercial or a new commercial, which is just received and stored in the viewer's unit, thereby updating the local database or local storage medium associated with the viewer's unit and especially if the newly received advertisement has similar content as the previously viewed advertisement.** Further, when there is no match between the stored CID and the received CID associated with the commercial break embedded in the transmitted program, no commercial will be displayed. However, there is always a default advertisement to be displayed. In the case of multiple matches, a prioritization programming will be employed to determine which commercials to be displayed and which ones to ignore. It is to be understood that each advertisement stored in the system to be displayed at the appropriate time has an expiration date and at the end of the expiration date, the advertisement will no longer to be displayed. In the end, the current system has the necessary hardware and software to replace a previously viewed advertisement with a newly transmitted advertisement, to ignore inappropriate advertisement and display a default one having a low priority, to select the advertisement having the highest priority in the case of multiple matches (col. 5: 39 to col. 8: 38).

Response To Applicant's Arguments

First, Applicant's arguments are moot in view of new grounds of rejection.

Furthermore, with respect to claims 24 and 41 and contrary to the Applicant's findings, Gerace discloses a system for providing to a subscriber or registered user via his client or receiver at least one advertising object (advertisement), having linking audio, video, images, graphics, text and so on, selected from a plurality of advertisements submitted by one or more sponsors, based on the subscriber's profile matching the associated sponsor's criteria, wherein the at least one advertisement is sent to the user's client or receiver along with (within) a transmitted data stream (agate information or primary content). It should be understood here that the user's receiver is configured to display the transmitted agate information together with the advertisement when local conditions at the client meet the display requirements or specifications of the agate information and advertisement. For instance, the client or receiver is using a particular local browser, such as a JAVA enabled browser comprising particular JAVA Scripts and JAVA Applets running on either PC/Microsoft OS or Mac/Mac OS (local conditions). Here, both the agate information (data stream) and the transmitted advertisement contain particular computer codes that make them suitable to be displayed on a particular platform, such as a PC platform running on Microsoft Windows OS or Macintosh system running on Mac OS, along with a particular browser (local conditions). For example, if the codes related to the advertisement detect that the receiver or client is using a platform and/or local browser incompatible to the platform and/or local browser recognized by the advertisement codes, then the advertisement cannot and will be displayed and thus, it will be rejected **or discarded (discarding step)**.

Additionally, each advertisement or advertising object (or series of advertisements) has

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starting (display) time and an ending (display) time indicating the schedule or the period during which the related advertisement(s) should be displayed on a subscriber's unit when inserted or transmitted in a transmitted data stream (agate information or primary content) (See figs. 3C-3F and 5B-5C).

Finally, features that are inherent in the art or widely used in the industry need not be disclosed in a reference in order for these features to be anticipated by the current prior art; in other words, failure of those skilled in the art to contemporaneously recognize an inherent property, function or ingredient of a prior art does not preclude a finding of anticipation (MPEP 2131.01 (III)).

Conclusion

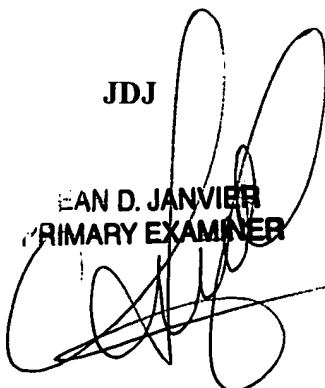
Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

09/05/06

JDJ
JEAN D. JANVIER
PRIMARY EXAMINER



Jean D. Janvier

Patent Examiner

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